REMARKS

This Amendment is in reply to the Final Office Action mailed on September 9, 2004. Claims 8 and 12 have been amended. Claims 1-19 remain pending in this application. No new matter has been added. Entry and reconsideration of the amendments and following remarks is respectfully requested.

Claims Rejections - 35 U.S.C. §112, second paragraph

Claims 8 and 12 were rejected under 35 USC §112, second paragraph, as being indefinite for failing to particularly point out the claimed invention. Specifically, the Examiner states that the claims include the word "substantially" which is indefinite.

The Applicants have amended the claims to delete the word "substantially." Accordingly, withdrawal of the rejections under 35 USC §112, second paragraph, is respectfully requested.

Claims Rejections - 35 U.S.C. §103

Claims 1-19 were rejected under 35 USC §103(a) as being unpatentable over Oppenheimer (5,983,206) in view of Levine et al. (6,233,566). This rejection is respectfully traversed.

In the present invention, a method is described for restructuring the debt of a debtor wherein a third party purchases a distressed property from a debtor by satisfying a

mortgage balance remaining on the property and satisfying the debtor's outstanding personal debt. The debtor's existing debts are therefore satisfied and the debtor avoids foreclosure or bankruptcy. The property is then sold from the third party back to the debtor at a premium (i.e. appraised present value of the property). The debtor is able to retain the property while continuing to satisfy his existing debts and there is no harm to the debtor's credit.

Oppenheimer does not teach or suggest a method of restructuring the debt of a debtor by purchasing the distressed property, outstanding personal debt and then reselling the property back to the debtor as specifically recited in independent claims 1, 2, 15 and 19. In contrast, Oppenheimer teaches a computer system and computer-implemented process which creates single mortgage documents with multi-part obligations. The multi-part obligation comprises a two part mortgage (col. 4, l. 52-61) where part of the mortgage is borrowed as a conventional fixed-rate loan, while the second part is borrowed against an interest in the home (col. 3, l. 13-25). The computer system includes components for issuance, origination, servicing and settlement of the mortgage. Therefore, the Oppenheimer invention is for the creation of new mortgages guaranteeing substantially lower homeowner payments. Oppenheimer does not even contemplate a method for restructuring the debt of the debtor if the debtor defaults (i.e. is distressed) on a mortgage. There is no mention of purchasing the distressed property, satisfying outstanding personal debt or of reselling the property back to the debtor.

With regard to Levine, the reference does not teach or suggest a method of restructuring the debt of a debtor by purchasing the distressed property, outstanding personal debt and then reselling the property back to the debtor as specifically recited in independent claims 1, 2, 15 and 19. On the contrary, Levine is a system for online trading of financial products which provides a centralized marketplace for trading of loan products and for end-to-end loan handling. As above, Levine does not even contemplate a method for restructuring the debt of the debtor if the debtor defaults (i.e. is distressed) on a mortgage. There is no mention of purchasing the distressed property, satisfying outstanding personal debt or of reselling the property back to the debtor with respect to a distressed property.

The Examiner has not established a prima facie case of obviousness by meeting the three basic criteria. First, there must be some suggestion or motivation in the references to modify the reference or to combine reference teachings. Hindsight is forbidden. Second, there must be a reasonable expectation of success. Finally, the reference, or references when combined, must teach or suggest all the claim limitations.

Applicants submit that there is absolutely no teaching or suggestion in Oppenheimer that would lead one to combine the teachings of that reference with Levine. The Oppenheimer reference relates to a computer system for creating mortgage documents. Levine relates to a system for online financial trading. An artisan of ordinary skill in the art would not use the limitation of satisfying a debtor's outstanding personal debt for online financial products trading and combine it with a system for

creating new mortgage instruments, especially since Oppenheimer does not suggest or hint to a method for restructuring the debt of a debtor by purchasing the distressed property, satisfying outstanding personal debt and reselling the property back to the debtor. Accordingly, absent some motivation, one of ordinary skill in the art would not combine the invention of Oppenheimer with the teachings of Levine.

Furthermore, Applicants submit that even if the references were combined, the result would not be the present invention such that all the claim limitations are taught or suggested. *The Applicant's method does not issue mortgages and it is not a loan product.* The Applicant's invention is a method of restructuring the debt of a debtor by purchasing the distressed property, outstanding personal debt and then reselling the property back to the debtor. The Examiner has not even specifically pointed out where Oppenheimer teaches the present claim limitations. Therefore, Examiner's statement is not sufficient to establish a prima facie case of obviousness.

Also, neither Oppenheimer nor Levine appreciate the existence of the problem solved by the Applicant's invention. The Applicant's recognition of the problem is, in itself, strong evidence of the non-obviousness of the invention.

Accordingly, Applicant asserts that independent claims 1, 2, 15 and 19 are patentable over the cited prior for the reasons stated above. Also, by reason of their dependency on independent claims 1, 2 and 15, the Applicant asserts that claims 3-14 and 16-18 are also patentable over the cited references. It is therefore respectfully requested that the rejection of the claims under 35 U.S.C. §103(a) be withdrawn.

Conclusion

In view of the above amendments and remarks it is submitted that the Examiner's objections and rejections have been overcome and should be removed and the present application should now be in condition for allowance.

The Applicants note that there is no indication that the drawings are acceptable. The Applicants respectfully request that the Examiner provide indication that the drawings are accepted by the Examiner in the next formal communication.

Should any changes to the claims and/or specification be deemed necessary to place the application in condition for allowance, the Examiner is respectfully requested to contact the undersigned to discuss the same.

A one-month extension fee is being filed with this Response to Office Action. In the event that any other extensions and/or fees are required for the entry of this Response, the Patent and Trademark Office is specifically authorized to charge such fee to Deposit Account No. 50-0518 in the name of Steinberg & Raskin, P.C.

An early and favorable action on the merits is earnestly solicited.

Respectfully submitted,
STEINBERG & RASKIN, P.C.

By: Dona C. Edwards

Dona C. Edwards
Reg. No. 42,507

Steinberg & Raskin, P.C.
1140 Avenue of the Americas
New York, New York 10036
(212) 768–3800